



भारत का राजपत्र

The Gazette of India



असाधारण

EXTRAORDINARY

भाग II—खण्ड 2

PART II—Section 2

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं. 36] नई विहारी, शुक्रवार, अगस्त 4, 1978/ शावग 13, 1900

No. 36] NEW DELHI, FRIDAY, AUGUST 4, 1978/SRAVANA 13, 1900

इस भाग में भिन्न पृष्ठ संलग्न वी जाती हैं जिससे एक यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed
as a separate compilation

LOK SABHA

The following Bills were introduced in Lok Sabha on the 4th August, 1978:—

BILL No. 21 OF 1978

A Bill further to amend the Constitution of India.

Be it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 1978.

(2) It shall come into force on such date, as may be fixed by the Central Government, within a period of one year from the date on which it receives the assent of the President.

Short title and commencement.

2. After article 23 of the Constitution, the following new articles shall be inserted, namely:—

Insertion of new articles 23A, 23B and 23C.

“23A. (1) All adult and educated citizens shall have the right to work and shall be entitled to adequate means of livelihood.

Right to work and unemployment allowance.

(2) Failing to procure such means, specified in sub-clause (1), every citizen shall be entitled to an unemployment allowance during the period of his unemployment, to be paid by the State.

Right to strike.

23B. In the event of failure of negotiations between the management and workers, the latter shall have the right to strike work.

Right to recall the elected representatives.

23C. The electorate shall have the right to recall their elected representatives in Parliament by submission of a memorandum to the President signed by a two-third majority, if they fail to discharge their duties, use influence in solving the problems of the people or are guilty of moral turpitude or act in any manner to the detriment of the country or the people.'.

STATEMENT OF OBJECTS AND REASONS

Article 39 of the Constitution *inter alia* states: "The State shall, in particular, direct its policy towards securing—(a) that the citizens, men and women equally, have the right to an adequate means of livelihood;". But these rights are only in the nature of Directive Principles of State Policy. They are not justiciable and there is no legal sanction behind them. The focal point of the State activity should be the good of the people. Everybody talks of removal of unemployment. This problem is considered serious from all the angles and assurances to solve it had never been lacking but no concrete and positive steps have been taken in this direction. The faith of majority of the unemployed youth in the democratic system is shaken. This major problem must be tackled successfully. If the State fails to do so, there should be a provision for payment of an allowance to be unemployed.

It is necessary to provide in the Constitution for the recall of Member's of Parliament elected by the people to ensure that they remain constantly vigilant to their duties and responsibilities. Failing which, it may result in a feeling of authority and lethargy in the minds of elected representatives of the people.

The workers must be granted the right to strike work in the event of failure of negotiations between the management and the workers of industrial undertakings on certain issues. It is in the interest of increasing production to accept the just demands of the workers. Discontented workers can never help increase the production.

This amending Bill seeks to achieve the above objectives.

NEW DELHI;

UGRASEN.

The 1st December, 1977.

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for adequate means of livelihood, failing which every citizen shall be entitled to an unemployment allowance. An expenditure of about 500 crores of rupees is likely to be involved every year from the Consolidated Fund of India on this account in respect of Union territories and by way of grants-in-aid to States.

No non-recurring expenditure is likely to be involved in case the Bill is enacted.

BILL NO. 65 OF 1978

A Bill to provide for the establishment of Trust Corporations and for matters connected therewith.

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

Short title,
extent and
commencement.

1. (1) This Act may be called the Indian Trusteeship Act, 1978.

(2) It shall extend to the whole of India.

(3) It shall come into force on such date or day as the Central Government may, by notification in the Official Gazette, appoint.

2. In this act, unless the context otherwise requires,—

(a) “company” means any public or private company registered under the Companies Act, 1956 whose authorised capital exceeds Rs. 10 lakhs.

(b) “panchayat” means such body of a Trust Corporation as is constituted under the provisions of this Act for the management of the Trust Corporation.

(c) “Trade” means and includes all industries, plantations, banks, business, transport or any other activities carried on for the purpose of making profit.

(d) “Trust Corporation” means such company whose proprietors have declared themselves to be its trustees in the manner laid down in this Act.

Definitions.

3. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Provisions to have effect notwithstanding any law in force.

4. A company shall declare itself to be a Trust Corporation by a resolution passed by a majority of the share-holders present in a general body meeting.

Formation of a Trust Corporation.

5. Immediately after the passing of the Resolution under section 4, the Managing Agent or the Manager or the Secretary of the Company shall send an intimation to this effect to the Registrar of Joint Stock Companies in whose jurisdiction the head office of the Company is located.

Registrar to be informed.

6. On receipt of such an intimation, the Registrar shall direct the Managing Agent or the Manager or the Secretary, as the case may be, to run the day-to-day affairs of the Company in the capacity of an interim Managing Trustee.

Management during interim period.

7. The Registrar shall make arrangements to assess the assets and liabilities of the Company as soon as may be and shall constitute in the following manner a panchayat consisting of not more than sixteen members in order to supervise and have control on and to issue directions to the Managing Trustee:—

Constitution of Panchayat of Trustees.

(a) not more than five trustees to be nominated by the share-holders of the Company;

(b) not more than five trustees to be nominated by the trade union of the employees of the company, of whom at least one from among the management department and one from among the agents and the rest from among the employees of any of the other departments;

(c) five trustees to be appointed by the Registrar from among the experts, one each from the Planning Commission, the Ministries of Commerce and Industry, the Department of Company law administration and the labour department of the State Government concerned and one nominated representative of the Municipality or Municipal Corporation of the area where the Head office of the Company is located;

(d) the interim Managing Trustee shall be ex-officio member of the Panchayat.

8. Every employee working in the Company for six months shall have the right to vote in the election of trustees.

Right of employees to vote.

9. Only such representative of the employees who is a member of any Trade Union Federation which seeks responsible participation in the management of the Trust Corporation shall be taken in the Panchayat.

Qualification of an employee Trustee.

Functions
of the
Pan-
chayat.

10. The Panchayat shall decide all the important questions relating to the trade management of the Trust Corporation, frame rules especially for the efficient management of the Corporation and shall approve the annual production schemes, annual accounts, construction and developmental programmes, and the proposals regarding purchase, sale, grant and borrowing of loans, salary, wages, bonus to employees and interest to shareholders, if any, etc.

Profits to
be depo-
sited with
Govern-
ment of
India.

11. After making provision for depreciation and Provident funds, the net profits of the Trust Corporation shall be deposited with the Income Tax Department of the Government of India so that it may be distributed among different States in accordance with the recommendations of the Finance Commission.

Payment
of bonus.

12. The Panchayat may sanction general bonus or individual merit bonus in case the annual production exceeds the target fixed by the Corporation.

Work
implemen-
tation
Commit-
tees of
employ-
ees.

13. The work implementation Committees of the employees shall be constituted in every department of the Trust Corporation and such committees shall be entrusted with the responsibility of explaining the decisions of the Panchayat to the employees, maintaining discipline and implementing the welfare schemes of the Trust Corporation.

Managing
Trustee.

14. The Managing Agent or the Manager or the Secretary of those companies which declare themselves to be Trust Corporation shall be the *ex-officio* Managing Trustee.

Nomina-
tion of
Managing
Trustee
in
certain
cases.

15. In case the Managing Agent is a company or a firm it may nominate the first Managing Trustee of the Trust Corporation.

Term of
first
Managing
Trustee.

16. The first Managing Trustee shall hold his office for a term of five years or till the attainment of the age of 60 years, whichever is later.

Removal
of
Managing
Trustee.

17. Any Managing Trustee indulging in a fraudulent practice can be removed from his office by the Panchayat.

Remunera-
tion of
first
Managing
Trustee.

18. (1) The remuneration of the first Managing Trustee shall be governed by a contract between the Panchayat and the Managing Trustee.

(2) In case of any dispute over the remuneration of the first Managing Trustee, the Registrar of Joint Stock Companies shall decide the remuneration keeping in view the standard of living of the first Managing Trustee.

19. The first Managing Trustee may recommend the name of his successor but the decision of the Panchayat shall be final.

Successor of Managing Trustee.

20. The Salary of the successive Managing Trustees and other managers or technical personnel shall be fixed by the Panchayat.

Salary of Managing Trustees.

21. The Panchayat shall elect one of its members as Chairman who shall convene the meetings of the Panchayat from time to time and preside over these meetings.

Chairman of Panchayat.

22. The Panchayat shall supervise the work of the Managing Trustee, scrutinise the report submitted by him and shall issue directions to him in regard to day to day administration, policies and programmes of the Corporation.

Panchayat to issue directions to Managing Trustee.

23. All the employees of the Trust Corporation shall work under the Managing Trustee during the course of their service.

Control over employees.

24. The Managing Trustee shall have the power to take disciplinary action against the employees violating the rules.

Disciplinary action against employees.

25. The accounts of income and expenditure of the Trust Corporation shall be audited by the Comptroller and Auditor General of India.

Audit of accounts.

26. The Statement of income and expenditure, profit and loss and assets and liabilities shall be placed before the joint annual meeting of all the employees and share-holders of the Trust Corporation.

Accounts to be placed before annual general meeting.

27. In case, after examining the audit report the Registrar of the Joint Stock Companies has reasons to believe that the affairs of the company are being conducted against public interest, he may recommend to the Central Government to take over the assets of the Corporation and dispose them in a manner as it deems fit.

Taking over of assets by Government in certain cases.

28. It shall be the responsibility of the representative of the Planning Commission in the Panchayat to ensure coordination between the industrial and commercial activities of the Trust Corporation and the national schemes for economic development and his decision shall be final in the matter.

Coordination with national plans.

29. In case the management of any industry or establishment is taken over by the Government under the provisions of the Industries (Development and Regulation) Act, 1951, and is handed over to the Registrar of Joint Stock Companies, it shall be treated as a Trust Corporation under this Act.

Acquisition of management by Government.

Setting up of new Trust Corporations.

Application of Act to new Corporations.

Managing Trustee of a new Corporation.

Power to make rules.

30. Any industrialist may set up a new Trust Corporation by investment of fifty per cent. of the authorised capital, provided the Central Government or the State Government concerned agrees to invest the remaining fifty per cent. of the authorised capital subject to the condition that the total equity capital does not exceed Rs. 20 lakhs.

31. The Trust Corporation set up under section 30 shall be governed by the same provisions applicable to other Corporations set up under this Act.

32. The Contract between the Managing Trustee of the Corporation set up under section 30 and the Government in respect of remuneration shall continue to be valid till the first Managing Trustee holds his office.

33. (1) The Central Government may, by notification in the Official Gazette, make rules to give effect to the provisions of this Act and the rules so framed shall be applicable both to the companies owned by Indian or foreign nationals or being run by them.

(2) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Mahatma Gandhi had once said that an opportunity would be provided to all the capitalists in independent India to become legal trustees. This Bill seeks to provide such an opportunity to the owners of big companies and make provision for running the management of such companies on democratic lines in accordance with Gandhiji's principles about trusteeship. The aim of this Bill is to usher in an era of Socialist Society through peaceful means. The Planning Commission has also observed in the Second Five Year Plan that a Socialist Society can be built not only by increasing wealth but by inculcating the spirit of Social Service. It is therefore expedient to create a feeling among the labour that they are associated with the establishment of a Socialist Society. It is hoped that the provisions of this Bill will encourage the workers to take full interest in the various activities of the Industry such as production, purchase and sale and investment and thus it would prove helpful in increasing production. The intention is not to take mandatory steps but to take persuasive steps so that the present proprietors of big companies may bring their present absolute titles under trust ownership.

Hence this Bill.

NEW DELHI;

The 17th October, 1977.

UGRASEN.

PRESIDENTS RECOMMENDATION UNDER ARTICLES 117 AND 274
OF THE CONSTITUTION OF INDIA

[Copy of letter No. 7/46/77-C.L.V., dated the 13th March, 1978 from Shri Shanti Bhushan, Minister of Law, Justice and Company Affairs to the Secretary, Lok Sabha.]

The President, having been informed of the subject matter of the Indian Trusteeship Bill, by Shri Ugrasen, Member, Lok Sabha, recommends under clause (1) of article 117 and clause (1) of article 274 of the Constitution the introduction of the Bill and under clause (3) of article 177 of the Constitution the consideration of the said Bill by the Lok Sabha.

FINANCIAL MEMORANDUM

Clause 30 of the Bill provides that the Central Government may invest 50 per cent. of the authorised capital of a new Trust Corporation that may be set up by any Industrialist. The Bill, therefore, if enacted, is likely to involve a recurring expenditure of about Rs. 25 lakhs from the Consolidated Fund of India.

No non-recurring expenditure is likely to be incurred.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 33 of the Bill confers on the Central Government power to make rules to carry out the purposes of the Bill when enacted. Generally, these rules will relate to matters of detail and procedure. The delegation of legislative power is, therefore, of a normal character.

BILL NO. 68 OF 1978

A Bill further to amend the Code of Civil Procedure, 1908 and the Code of Criminal Procedure, 1973.

Be it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. This Act may be called the Codes of Civil and Criminal Procedure (Amendment) Act, 1978. Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

CHAPTER II

AMENDMENTS TO THE CODE OF CIVIL PROCEDURE, 1908

Substitution of section 80.

2. For section 80 of the Code of Civil Procedure, 1908, the following ^{5 of 1908.} section shall be substituted, namely:—

Notice not necessary.

“80. Notwithstanding anything in this Act or any other law, no prior notice shall be necessary for taking any civil action against the Central Government, State Government, any Authority or body thereof, or any other body or Authority.”.

Insertion of new section 154.

3. After section 153B of the Code of Civil Procedure, 1908, the following section shall be inserted, namely:—

Written arguments.

“154. The parties to any civil proceedings may file written arguments in any case, and the Court shall consider the same on merits and further keep the same on record of the case.”.

Amendment of Order XV.

4. In Order XV of the Code of Civil Procedure, 1908, after rule 1, the following rule shall be inserted, namely:—

Judgment or order on merits.

“1A. Notwithstanding anything in this Act, every judgment or order passed by the Court shall be based on merits irrespective of the fact that the concerned parties are present or not.”

Amendment of Order XX.

5. In Order XX of the Code of Civil Procedure, 1908, for rule 6B, the following rule shall be substituted, namely:—

Copies of judgment to be made available.

“6B. A copy of the judgment shall be made available to the parties within two days from the delivery of judgment at a nominal cost of rupee one.”.

CHAPTER III

AMENDMENT TO THE CODE OF CRIMINAL PROCEDURE, 1973

Amendment of section 200.

6. In section 200 of the Code of Criminal Procedure, 1973, part (a) ^{2 of 1974} of the first proviso shall be deleted.

STATEMENT OF OBJECTS AND REASONS

State or the Public Officer should not have any special privilege, over and above the citizens, in the process of law, otherwise there will be infringement of article 14. Amendment of section 80 of the Code of Civil Procedure, 1908 and section 200 of the Code of Criminal Procedure, 1973 is, therefore, necessary in the public interest. Proposed amendment of other provisions is also necessary for the ends of justice.

Hence the Bill.

NEW DELHI;

MANOHAR LAL

The 8th March, 1978.

BILL No. 118 of 1978

A Bill further to amend the Constitution of India.

Be it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (1) This Act may be called the Constitution (Amendment) Act, 1978.
(2) It extends to the whole of India.
(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of Seventh Schedule.

2. In the Seventh Schedule to the Constitution,—

(i) in List II—State List, in entry 17, the words “and entry 17C of List III” shall be added at the end;

(ii) in List III—Concurrent List, after entry 17B, the following entry shall be inserted, namely:—

“17C. Exploration and Utilization of underground water resources.”

STATEMENT OF OBJECTS AND REASONS

India has got a vast potential of underground water resources which can be utilised for irrigational purposes, especially in dry farming areas and backward regions. As yet there is no organisation in the country which has surveyed the underground water resources in a systematic way and no infrastructure has been built to utilise those resources for agriculture in a big way. So far only the rich farmers are utilising the underground waters through their own tube wells. The general farming community especially in dry areas have not been able to tap the water resources underneath.

The proposed amendment enables the Centre and the States to take up exploration and utilisation of underground water resources for the benefit of the community in water scarcity and dry farming areas.

K. LAKKAPPA.

NEW DELHI;

The 11th April, 1978.

BILL No. 121 OF 1978

A Bill further to amend the Code of Criminal Procedure, 1973.

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

1. This Act may be called the Code of Criminal Procedure (Amendment) Act, 1978.

2. In section 2 of the Code of Criminal Procedure, 1973 (hereinafter referred to as the principal Act),—

(i) after clause (d), the following clause shall be inserted, namely:—

“(dd) ‘foreigner’ has the same meaning as in the Foreigners Act, 1946;”;

(ii) after clause (o), the following clause shall be inserted, namely:—

“(oo) ‘person’ includes a foreigner;”;

(iii) after clause (u), the following clauses shall be inserted, namely:—

“(uu) ‘State Government’ in relation to a Union territory means the Administrator thereof;

(uuu) in relation to the 'Security of the State':—

(1) "acting in any manner prejudicial to the security of the State" means making preparation for using, or attempting to use, or using, or instigating, inciting or otherwise abetting the use of, any lethal weapons (including fire arms, explosive substances and corrosive substances), to overthrow or overawe the Government established by law in India;

(2) "acting in any manner prejudicial to the maintenance of public order" means—

(i) promoting, propagating, or attempting to create feelings of enmity or hatred or disharmony on grounds of religion, race, caste, or community;

(ii) making preparations for using, or attempting to use or using, or instigating, inciting or otherwise abetting the use of any lethal weapons (including firearms, explosive substances and corrosive substances) where such preparations, using attempting, instigating, inciting or abetting, disturbs or is likely to disturb public order;

(iii) attempting to commit, or committing, or instigating, inciting or otherwise abetting the commission of, mischief within the meaning of section 425 of the Indian Penal Code in respect of public property or means of public transportation where the commission of such mischief disturbs, or is likely to disturb public order;

(iv) committing offences punishable with death or imprisonment for life or imprisonment for a term extending to seven years or more, where the commission of such offences disturbs or is likely to disturb, public order.

Explanation.—In this sub-section,—

(a) "firearms" shall have the same meaning as in the Arms Act, 1959;

(b) "explosive substances" shall have the same meaning as in the Explosive Substances Act, 1908;

(c) "public property" means any property owned or controlled by the Government or by a corporation owned or controlled by the Government or by a society financed wholly or substantially by the Government".

3. After section 110 of the principal Act, the following section shall be inserted, namely:—

Insertion
of new
section
110A.

"110A(1) If having regard to the circumstances prevailing or likely to prevail in an area, a Police Officer not below the rank of Superintendent of Police having ten years' field experience reports to a Session Judge having jurisdiction, and the Sessions Judge after due consideration of the material placed before him by police is satisfied that the activities of the person named by the police are

Action in
cases in-
volving
security
of State.

against the security of the State or maintenance of the public order; he may issue a warrant of arrest of any nature for the appearance before the Court or issue a show cause notice to such a person.

(2) The person on whom notice under sub-section (1) is served shall, within two days from the date of receipt of notice, explain why he should not be bound down for a period of not more than five years with ten sureties of good character for an amount not exceeding rupees twenty lakhs.

(3) In the case of a person arrested under sub-section (1), the Court may, where it deems fit, demand an interim bail from the person arrested, and in extraordinary cases the Court may, instead of binding him, order him to leave the place or places in the State for a period not exceeding five years.

STATEMENT OF OBJECTS AND REASONS

The gross misuse and abuse of the civil liberty given to the people of the country has given rise to a number of problems such as security of the State, maintenance of public order, economic offences, etc.

Considering the complexity and nature of problems and in the larger interest of the country, the existing law needs amendment to meet such cases.

Hence this Bill.

BALDEV SINGH JASROTIA

NEW DELHI;

The 18th April, 1978.

BILL No. 116 OF 1978

A Bill to provide for the abolition of death penalty.

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Abolition of Death Penalty Act, 1978. Short title,
extent and
commencement.
- (2) It extends to the whole of India except the State of Jammu and Kashmir.
- (3) It shall come into force at once.
2. Notwithstanding anything contained in the Indian Penal Code or any other law for the time being in force, no court having jurisdiction in India shall award the sentence of death to any person convicted of any offence and the maximum penalty for any punishable offence shall not be more than imprisonment for life till death. Abolition
of death
penalty.

STATEMENT OF OBJECTS AND REASONS

"Every saint has a past, every sinner has a future". In fact, capital punishment is not a punishment but the very end of human existence. If we cannot give life, we have no right to take it away. The Retribution theory is out-moded, barbarous and entirely lacking in reformative value. The plea that capital punishment acts as a deterrent, and exercises a restraining influence is not borne out by the experience of modern States. Besides it demoralises those who inflict it, its heinous nature has the effect of coarsening the public sentiment. To authorise killing is to tamper with the sanctity of human life; sometimes innocent persons have been sentenced to death and in such cases no reparation is possible. Murders are often committed under the influence of a frenzy, which is of the nature of a disease, and has to be treated like many other diseases by proper therapeutic means. To end the life of such a criminal may seem to be a short cut. When the dignity of human life was not adequately realised, public conscience tolerated this savage and drastic remedy. But with the growth of a larger perception of the economy of human life and also as a means of educating the social conscience of the community against crimes of violence put upon our shoulders the responsibility to put an end to death penalty and find out some alternative in consonance with the needs of true interest of the civilized society.

Capital punishment has been abolished in a large number of progressive countries in the world like Australia, Belgium, Denmark, Holland, Italy, Norway, Portugal, Sweden and a few States in America etc. Public opinion in other countries is also coming round to the view that Capital punishment is a relic of barbarism, and is not suited to the social needs of the present time. Even those who are awarded the death sentence receive clemency in 9 out of 10 cases. It is morally wrong also for the State in the name of the law to take life deliberately. In the name of eliminating the criminal, the State does not erase the crime, but repeats it. Indian ideology is based on non-violence. If a country physically and morally in shambles like Germany in 1948 could abolish the death penalty without any ill effects, then why not this country of Mahavira and Buddha, Ashoka and Gandhi? Capital Punishment is irrevocable, so if an innocent person is sentenced on account of some erroneous judgment, there is no compensation for death admits of no compensation. One murder breeds another murder by giving rise to sensationalism. It is unjust as it inflicts injury to the family members who for no fault of their undergo immense agony.

If the history of humanity is a development from savagery to civilization, violence to non-violence, we must have courage to shun our prejudices and rise above old superstitions and abolish death penalty.

Hence the Bill.

RAMJI SINGH

NEW DELHI:
The 27th April, 1978.

BILL No. 101 OF 1978

A Bill further to amend the Salary, Allowances and Pension of Members of Parliament Act, 1954.

Be it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

30 of 1954.

1. This Act may be called the Salary, Allowances and Pension of Members of Parliament (Amendment) Act, 1978. Short title.
2. In section 8A of the Salary, Allowances and Pension of Members of Parliament Act, 1954, in sub-section (1),—
 - (a) for the words “three hundred rupees”, the words “five hundred rupees” shall be substituted; Amendment of section 8A.
 - (b) for the existing proviso, the following proviso shall be substituted, namely:—

“Provided that where a person has not served for five years as a Member of the House of the People because of the dissolution of that House earlier than five years from the date appointed for its first meeting, he shall be entitled to pension.”

STATEMENT OF OBJECTS AND REASONS

Under section 8A of the Salary, Allowances and Pension of Members of Parliament Act, 1954, the Members of Parliament are entitled to pension. However, pension is payable to such persons only who have served for a period of five years as a member of Parliament. This condition of a period of five years has given rise to an anomalous situation in respect of the Members of Lok Sabha. Since, none of the First, Second, Third and Fourth Lok Sabhas completed the term of five years from the date appointed for its first sitting, the majority of persons who were members of these Lok Sabhas are not entitled to pension. Only those persons who were re-elected for another term of Lok Sabha are entitled to pension. It is an irony that while, in the eyes of the people, the members of Parliament are entitled to pension, in fact they are not so entitled. It has also given rise to discrimination between the members of the first four Lok Sabhas and those of the Fifth Lok Sabha who got a term of more than five years and are getting pension.

In order to remove this anomaly in the Salary, Allowances and Pension of Members of Parliament Act, 1954, section 8A thereof needs to be amended. Moreover, a fixed amount of rupees five hundred per month should be given as pension instead of rupees three hundred and a graded upward enhancement of pension to a person who has served for more than five years, as a Member of Parliament.

Herece the Bill.

VINAYAK PRASAD YADAV

NEW DELHI;

The 4th May, 1978.

FINANCIAL MEMORANDUM

Clause 2 of the Bill seeks to increase the pension of Members of Parliament from Rs. 300/- to Rs. 500/- per month and also to make such Members eligible for pension who have served one full term of Lok Sabha even if it falls short of 5 years prescribed under the existing section 8A of the Salary, Allowances and Pension of Members of Parliament Act, 1954. The Bill, therefore, if enacted, is likely to involve a recurring expenditure of about Rs. 25,00,000/- from the Consolidated Fund of India.

No non-recurring expenditure is likely to be incurred.

BILL No. 117 OF 1978

A Bill further to amend the Pharmacy Act, 1948.

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Pharmacy (Amendment) Act, 1978. Short title and commence-
ment.
(2) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint.
2. In the Pharmacy Act, 1948 (hereinafter referred to as the principal Act), in section 2, part (d) shall be omitted. Amend-
ment of
section 2.
3. In the principal Act, in section 3, in part (g), for the words "from amongst themselves" the words "from amongst the persons elected under section 19(a)" shall be substituted. Amend-
ment of
section 3.

Omission
of Section
15A.

4. Section 15A of the principal Act shall be omitted.

Omission
of Section
15B.

5. Section 15B of the principal Act shall be omitted.

Amend-
ment of
Section,
32A.

6. In the principal Act, in section 32A, in sub-section (1),—

(i) for clause (d), the following clause shall be substituted, namely:—

(d) the names of persons who carry on the business or profession of pharmacy in the State, and

(i) have passed an examination conducted by the State Government according to the syllabus prescribed by a State Council;

(ii) have been engaged in the compounding of drugs for a period of five years on the prescriptions of registered medical practitioners without having passed the Senior School Leaving Certificate or its equivalent examination prior to a date to be notified in the Gazette of India and have enrolled their names with the State Pharmacy Council, on a payment of fee of rupees five, to appear in the examination to be conducted by the State Government in accordance with rules and conditions that may be laid for this purpose by the State Government, at least six months prior to the date fixed for such examination;

(ii) After clause (d), the following clauses shall be inserted, namely:—

“(dd) the names of persons holding degrees of the¹ statutory universities in Pharmaceutical Sciences provided they apply prior to the date notified under clause (d).

(ddd) the names of persons holding degrees other than those of pharmacy and who are not pharmaceutical licensees but are approved by the licensing authorities prior to the date of publication of this Act in the Official Gazette.”

Amend-
ment of
section
42.

7. In the principal Act, in section 42, after sub-section(1), the following sub-section shall be inserted, namely,—

“(1A) No person shall be employed by any institution, pharmaceutical concern or by the Central Government or a State Government, to the post for which qualifications of pharmaceutical sciences are required, unless he is registered under this Act.”

STATEMENT OF OBJECTS AND REASONS

Under the existing Pharmacy Act, 1948, only persons who are engaged in practising the profession i.e. working in pharmacies and chemists and druggists along with repatriates and displaced persons have been allowed to be registered.

But persons working in the following institutions have been completely left out.

- (1) Hospitals and dispensaries, medical centres, mobile dispensaries and hospitals of State and Central Governments including Railways and E.S.I.S.,
- (2) Hospitals, dispensaries, mobile dispensaries of Charitable institutions,
- (3) Hospitals, Dispensaries and mobile dispensaries of local-self Governments,
- (4) Factories and other establishments dispensaries and hospitals, and
- (5) Dispensaries and hospitals of Private Registered Medical Practitioners.

Thus, it will be seen that a great number of persons are left out. This causes injustice and hardships to such persons. For want of enough registered pharmacists, Governments overlook the Pharmacy Act. While appointing people who are neither sufficiently qualified nor registered, the need to recognise them due to their long experience and actual training has arisen. This Bill seeks to give them a test and examination so that they can be recognised to get registration. This will also save them from illegal appointments in contravention of the Act.

For example, the statements about Maharashtra State will give an idea as to what will happen after 1981 if no provision is made to absorb the persons already in the line or profession. Secondly, all these persons will be thrown out of the profession and be unemployed, if they are not registered.

So far only four States have enforced prohibitive Section 42 of Pharmacy Act, 1948, and even then they are contravening the Pharmacy Act by allowing persons approved under Rule 65 of the Drugs and Cosmetics Rules, 1945, to dispense drugs and medicines on the prescriptions of Registered Medical Practitioners.

Hence the Bill.

VASANT KUMAR PANDIT

NEW DELHI;

The 10th May, 1978.

BILL No. 108 OF 1978

A Bill to repeal the Gold (Control) Act, 1968.

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

Short title. 1. This Act may be called the Gold (Control) Repeal Act, 1978.

Repeal of Act 45 of 1968. 2. The Gold (Control) Act, 1968 is hereby repealed. 45 of 1968.

STATEMENT OF OBJECTS AND REASONS

The Gold (Control) Act, 1968, was enacted by Parliament to improve the economy of the country and to utilise all the resources for the development of the nation. The Government wanted to finish the lust for gold and its ornaments. Therefore, it put many restrictions. Consequently, lakhs of people were rendered unemployed in the country and there was a lot of agitation. Many people even committed suicide. The Government was forced to make many amendments in the Act, so much so, that the very purpose of the Act has been forefeited. The present Act is useless and is not helpful for the development of the nation at all. It also does not help in improving the economy of the country. Therefore, the same should be repealed. Its repeal will provide employment to about one million people in the country. Besides, gold ornaments will be exported to foreign countries.

Hence the Bill.

KANWAR LAL GUPTA.

NEW DELHI:

The 24th June, 1978.

BILL No. 115 OF 1978

A Bill to provide for establishment of Emergency Courts for the trial of a certain class of offences.

WHEREAS Commissions of Inquiry appointed under the Commissions of Inquiry Act, 1952 have rendered reports disclosing the existence of *prima facie* evidence of offences committed by persons who have held high public or political offices in the country and others connected with the commission of such offences during the operation of the Proclamation of Emergency dated 25th June, 1975 and during the preceding period commencing 27th February, 1975 when it became apparent that offenders were being screened by those whose duty it was to bring them to book;

AND WHEREAS investigations conducted by the Government through its agencies have also disclosed similar offences committed during the period aforesaid;

AND WHEREAS the offences referred to in the recitals aforesaid were committed or continued during the operation of the Proclamation of Emergency dated 25th June, 1975, during which a grave emergency was clamped on the whole country, civil liberties were withdrawn to a

great extent, important fundamental rights of the people were suspended, strict censorship on the press was placed and judicial powers were crippled to a large extent;

AND WHEREAS it is the constitutional, legal and moral obligation of the State to prosecute persons involved in the said offences;

AND WHEREAS the ordinary criminal courts due to congestion of work and other reasons cannot reasonably be expected to bring those prosecutions to a speedy termination;

AND WHEREAS it is imperative for the functioning of parliamentary democracy and the institutions created by or under the Constitution of India that the commission of offences referred to in the recitals aforesaid should be judicially determined with the utmost dispatch;

AND WHEREAS it is necessary for the said purpose to establish additional courts presided over by a sitting Judge of a High Court in India or a person who has held office as a Judge of a High Court in India;

AND WHEREAS it is expedient to make some procedural changes whereby avoidable delay in the final determination of the guilt or innocence of the persons to be tried is eliminated without interfering with the right to a fair trial;

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Emergency Courts Act, 1978.

(2) It shall come into force at once.

Short title and commencement.

2. The Central Government shall, by notification in the Official Gazette, establish adequate number of courts to be called the Emergency Courts.

Establishment of Emergency Courts.

3. An Emergency Court shall take cognisance of or try such cases as are instituted before it or transferred to it as hereinafter provided.

Cognisance of cases by Emergency Courts.

4. (1) If the Central Government is of the opinion that there is *prima facie* evidence of the commission of an offence alleged to have been committed during the period mentioned in the preamble by a person who held high public or political office in India and that in accordance with the guidelines contained in the preamble hereto the said offence ought to be dealt with under the Act, the Central Government shall make a declaration to that effect in every case in which it is of the aforesaid opinion.

Declaration by Central Government of cases to be dealt with under this Act.

(2) Such declaration shall not be called in question in any court.

5. On such declaration being made, any prosecution in respect of such offence shall be instituted only in an Emergency Court designated by the Central Government and any prosecution in respect of such offence pending in any court in India shall stand transferred to an Emergency Court designated by the Central Government.

Institution and transfer of cases.

Pending appeal or revision to be transferred to Supreme Court. **6.** If at the date of the declaration in respect of any offence an appeal or revision against any judgement or order in a prosecution in respect of such offence, whether pending or disposed of, is itself pending in any transferred court of appeal or revision, the same shall stand transferred for disposal to Supreme Court of India.

Presiding Officers of Emergency Courts. **7.** An Emergency Court shall be presided over by a sitting Judge of a High Court in India or a person who has held office as a Judge of a High Court in India, nominated by the Central Government in consultation with the Chief Justice of India.

Jurisdiction of Emergency Courts as to joint trials. **8.** An Emergency Court shall have jurisdiction to try any person concerned in the offence in respect of which a declaration is made under section 4 either as principal, conspirator or abettor and all other offences and accused persons as can be jointly tried therewith at one trial in accordance with the Code of Criminal Procedure, 1973.

1 of 1974.

Procedure to be followed by Emergency Courts. **9.** An Emergency Court shall in the trial of such cases follow the procedure prescribed by the said Code for the trial of warrant cases before a magistrate and save as otherwise provided in this Act be governed by the said Code.

Appeal. **10.** (1) Notwithstanding anything in the said Code, an appeal shall lie as of right from any judgement or order of an Emergency Court to the Supreme Court of India both on fact and on law.

(2) Except as aforesaid, no appeal or revision shall lie to any court from any judgement or order of an Emergency Court.

STATEMENT OF OBJECTS AND REASONS

The establishment of special courts to try special classes of offences has been resorted to by the legislatures in this country and the validity of these laws has been upheld by the highest court. Even the Law Commission has recently recommended that certain economic and anti-social offences be tried by special courts.

Reports of various Commissions of Inquiry have disclosed offences committed by persons who have held high political or public office in this country. The true character of such persons must be known to the electorate as early as possible if democratic institutions are to survive and political life is to remain clean. The court calendars are so congested and powerful accused are capable of causing so much delay in the disposal of cases that it is desirable that additional courts which will exclusively deal with such offences are created. However, consistently without commitment to the Rule of Law, the accused must not be subjected to any procedural handicap or avoidable hostile discrimination. This Bill is intended to serve the said purpose.

NEW DELHI;

RAM JETHMALANI.

The 3rd July, 1978.

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for establishment of adequate number of courts to be called the Emergency Courts. Though the exact number of such courts cannot be assessed at this stage, yet it is estimated that a recurring expenditure of about Rs. 50,000/- is likely to be involved from the Consolidated Fund of India on the functioning of these courts.

No non-recurring expenditure is likely to be involved.

AVTAR SINGH RIKHY,

Secretary.

